

MINUTES
OF THE
MAY 17, 2018 REGULAR MEETING



OF THE
OKLAHOMA WORKERS' COMPENSATION COMMISSION

STATEMENT OF OKLAHOMA OPEN MEETING LAW COMPLIANCE

Notice of this Regular Meeting was filed with the Secretary of State's office on Monday, November 13, 2017 at 9:05 a.m., in compliance with the Open Meeting Act.

The agenda was posted at least 24 hours in advance of the meeting, in compliance with the Open Meeting Act. It was posted on the Commission website and at 1915 N. Stiles Ave., Oklahoma City, Oklahoma, the Commission's principal office.

MINUTES OF THE MAY 17, 2018 REGULAR MEETING OF THE OKLAHOMA WORKERS' COMPENSATION COMMISSION

The members of the Oklahoma Workers' Compensation Commission met at 1915 N. Stiles Ave., 2nd floor, Oklahoma City, Oklahoma, on May 17, 2018.

Members present: Chairman Mark Liotta, Commissioner Jordan Russell, and Commissioner Megan Tilly.

Others Present: Executive Director Hopper Smith, WCC; Dana Esparza, WCC; Tish Sommer, WCC; Jennifer Reeves, WCC; Collin Fowler, WCC; Stormy Moore, WCC; Lindsey Christopher, WCC; Eric Russell, WCC; and Alisha Davidson, CompSource Mutual Insurance Company.

Chairman Liotta expressed appreciation for those in attendance. After the roll was taken, he announced the presence of a quorum. The meeting was called to order at approximately 1:30 p.m.

Approval of Minutes

Chairman Liotta presented the minutes of the April 19, 2018, April 26, 2018 and May 3, 2018 public meetings for approval.

Motion: Commissioner Tilly moved to approve the minutes of the April 19, 2018, April 26, 2018 and May 3, 2018 public meetings.

Second: Commissioner Russell.

Those voting aye: Chairman Liotta, Commissioner Russell, Commissioner Tilly.

The motion carried.

1. Discussion and Consideration or Reducing the Security Deposit of Gerda Ameristeel US Inc., Former Own Risk Employer

Pursuant to Commission Rule 810:25-9-19, a security deposit posted with the Commission as required by Commission Rule 810:25-9-4 must remain in place, at its existing amount, for two years after an individual own risk employer voluntarily leaves self-insurance. A security deposit may be reduced at the Commission's discretion after the two-year waiting period upon application by the employer and submission of current financial statements and workers'

compensation loss runs. The Commission considered reducing the security deposit of Gerdau Ameristeel, US Inc., a former own risk employer.

Permitting Services Division Director Stormy Moore was recognized, reported, recommended taking no action on reducing the security deposit, and responded to questions of the Commissioners.

Motion: Commissioner Tilly moved to take no action on reducing the security deposit of Gerdau Ameristeel US Inc., former own risk employer.

Second: Commissioner Russell.

Those voting aye: Chairman Liotta, Commissioner Russell, Commissioner Tilly.

The motion carried.

2. Proposed Commission Approval of Group Self-Insurance Application for New Membership:

Commission Rule 810:25-11-3 states a new membership to a self-insurance group may not become effective without Commission approval. All applications for membership are filed with the Commission. The application includes evidence of the execution of the indemnity agreement, power of attorney, and joint and several liability agreement, as required by 810:25-11-15, with signed approval of the applicant by the association, and is accompanied by a current balance sheet and income statement and estimated standard and discounted premium the applicant will pay during the period between the application effective date and the association's renewal.

The Commission considered approving the application of **#881 Primeaux Dealerships, LLC dba Primeaux Mitsubishi** for new membership to the **Oklahoma Automobile Dealers Self-Insured Association (#75058)**.

Permitting Services Division Director Stormy Moore was recognized, reported, recommended approval of the application, and responded to questions of the Commissioners.

Motion: Commissioner Tilly moved to approve the application of **#881 Primeaux Dealerships, LLC dba Primeaux Mitsubishi** for new membership to the Oklahoma Automobile Dealers Self-Insured Association (#75058).

Second: Commissioner Russell.

Those voting aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

The motion carried.

3. Proposed Opening of the Emergency Rulemaking Process to Consider Emergency Rules for the Workers' Compensation Commission

The Commission considered opening the emergency rulemaking process to develop emergency rules pertaining to the Oklahoma Legislature's enactment of SB1249 (2018) creating the Affidavit of Exempt Status (in lieu of a Certificate of Noncoverage) and Cancellation of an Affidavit of Exempt Status. Lindsey Christopher, Commission Appellate Counsel, was recognized, reported, recommended opening the emergency rulemaking process, and responded to questions of the Commissioners.

Motion: Commissioner Tilly moved to open the emergency rulemaking process as recommended.

Second: Commissioner Russell.

Those voting aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

The motion carried.

4. Proposed Opening of the Form Adoption, Revision and Repealer Process to Consider New Forms, Form Revisions and Form Repealers to the Workers' Compensation Commission Forms

Title 85A O.S. § 22 provides before the adoption, amendment or modification of any form, the Commission shall give thirty (30) days' notice of its intended action and provide an opportunity for public comment, following the rulemaking process. The Commission considered opening the form adoption, revision and repealer process to provide for necessary modification to forms and adopting new forms to provide for processes not currently addressed by the existing forms.

Lindsey Christopher, Commission Appellate Counsel, was recognized, reported and recommended opening the form adoption, revision and repealer process.

Motion: Commissioner Russell moved to open the form adoption, revision and repealer process as recommended.

Second: Commissioner Tilly.

Those voting aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

The motion carried.

5. Consent Agenda for Travel Vouchers Currently Outstanding

Title 85A O.S. § 23 states any Commissioner or employee of the Commission shall be entitled to receive his or her necessary traveling expenses as provided in the

State Travel Reimbursement Act. The expenses shall be certified by the person who incurred them and shall be allowed and paid on presentation of vouchers approved by the Commission. In accordance with this section, the Commission considered a vote to approve the currently outstanding vouchers. Commission CFO Jennifer Reeves was recognized, reported and gave a recommendation.

Motion: Commissioner Tilly moved to approve the currently outstanding vouchers.

Second: Commissioner Russell.

Those voting aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

The motion carried.

6. Discussion and Consideration of Proposed Fiscal Year 2019 Contract Between the Commission and the Office of the Oklahoma Attorney General

The Commission discussed and considered a proposed contract engaging the legal services of the Office of the Oklahoma Attorney General for FY-2019. The cost of the contract is \$52,749.96. Commission CFO Jennifer Reeves was recognized, reported, recommended approving the contract, and responded to questions of the Commissioners.

Motion: Commissioner Tilly moved to approve the contract between the Commission and Office of the Oklahoma Attorney General for legal services for FY-2019, encumbering funds in the amount of \$52,749.96.

Second: Commissioner Russell.

Those voting aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

The motion carried.

7. Discussion and Consideration of Proposal to Replace Carpeting on the First Floor of the Denver Davison Building in Oklahoma City, Oklahoma

The Commission discussed and considered a proposal to replace carpeting on the first floor of the Denver Davison Building in Oklahoma City, Oklahoma, including associated expenditures. Chairman Liotta sought input and guidance from the Commissioners on the matter due to the anticipated expenditure amount being significant, although within the Chairman's established expenditure authority.

Commission CFO Jennifer Reeves was recognized, reported, and responded to questions of the Commissioners.

Motion: Commissioner Russell moved to allow Chairman Liotta to exercise his discretion to resolve the issue.

Second: Commissioner Tilly.

Those voting aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

The motion carried.

8. Discussion and Consideration of Contracting with a Vendor for Courier Services for Fiscal Year 2019

The Commission discussed and considered contracting with a vendor for courier services for FY-2019. Commission CFO Jennifer Reeves was recognized, reported, and recommended contracting with R & R Delivery for courier services for FY-2019 in the amount of \$7,800.00, with three options to renew.

Motion: Commissioner Tilly moved to contract with R & R Services for courier services for FY-2019, encumbering funds in the amount of \$7,800.00, with three options to renew.

Second: Commissioner Russell.

Those voting aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

The motion carried.

9. Discussion and Consideration of the Commission's Fiscal Year 2019 Budget

The Commission engaged in preliminary discussions and consideration of its proposed FY-19 budget.

Commission CFO Jennifer Reeves was recognized, reported, and responded to questions of the Commissioners.

Motion: Commissioner Tilly moved to continue the matter to the Commission's next regular business meeting.

Second: Commissioner Russell.

Those voting aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

The motion carried.

10. Discussion and Consideration of Requiring a Trading Partner Agreement Adopted by the Commission to be Submitted By Each Trading Partner Prior to Submitting Claims Information Via the Commission's Electronic Data Interchange (EDI) Program

Commission Emergency Rule 810:1-1-8(c) provides that if required by the Commission, a trading partner agreement adopted by the Commission shall be submitted by each trading partner prior to submitting claims information via EDI. The rule also states the signing party understands 85A O.S., § 6 applies to each First Report of Injury (FROI) and Subsequent Report of Injury (SROI) submission and the party is signing under penalty of perjury as prescribed by 85A O.S., § 123.

The Commission discussed and considered adopting a trading partner agreement prescribed by the Commission and requiring it to be submitted by each trading partner prior to submitting claims information via the Commission's EDI program. The proposed trading partner agreement was provided to each of the Commissioners previously.

Legal Services Director Eric Russell was recognized, reported and responded to questions of the Commissioners. He recommended adopting the trading partner agreement as proposed and requiring it to be submitted by each trading partner prior to submitting claims information via the Commission's EDI program.

Motion: Commissioner Russell moved to adopt the trading partner agreement as proposed and require it to be submitted by each trading partner prior to submitting claims information via the Commission's EDI program.

Second: Commissioner Tilly.

Those voting aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

The motion carried.

11. Discussion and Consideration of Current Commission Personnel Policy

The Commission discussed and considered its current Performance Management Policy and determined if any updates are necessary.

Commission Director of Communication and Administration was recognized, reported, and responded to questions of the Commissioners. Chairman Liotta reported the policy needed to be updated to reflect changes to the legal requirements listed on page 5.

Motion: Commissioner Tilly moved to continue the matter to a future meeting of the Commission.

Second: Commissioner Russell.

Those voting aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

The motion carried.

12. Presentations and Reports

THE FOLLOWING PRESENTATIONS AND REPORTS WERE PRESENTED FOR INFORMATIONAL PURPOSES ONLY. NO ACTION WAS TAKEN.

A. Legislative Update Report

Commissioner Russell reported on legislative meetings and legislation affecting the Commission.

B. Educational Outreach Report and Presentation

Chairman Liotta gave a presentation and reported on the Commission's educational outreach efforts.

13. Announcements

The Commission's next regularly scheduled appeals meeting is on May 18, 2018. The Commission's next regularly scheduled business meeting is on June 14, 2018.

ADJOURNMENT.....Chairman Mark Liotta

Motion: Commissioner Tilly moved to continue the matter to a future meeting of the Commission.

Second: Commissioner Russell.

Those voting aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

The motion carried.